

EXHIBIT 8

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 3:22-cv-04585

GPI, LLC,

Plaintiff,

v.

RAPSYS INCORPORATED
d/b/a GEESE POLICE OF
NAPERVILLE; and
VIDMANTAS RAPSYS,

Defendants.

REMOTE DEPOSITION
OF:

DIANE MARCKS

T R A N S C R I P T of remote deposition
stenographically reported by and before MICHELE
QUICK, a Certified Court Reporter, Registered Merit
Reporter and Certified Realtime Reporter of the
State of New Jersey, authorized to administer oaths
remotely pursuant to R.S. 41:2-1 and A-3864, via
Zoom videoconference, on Wednesday, May 24, 2023,
commencing at 9:55 a.m.

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WEST CALDWELL, NEW JERSEY 07006
(973) 618-0872
office@quickreporters.com

A P P E A R A N C E S:

BUCHANAN, INGERSOLL & ROONEY, P.C.
Union Trust Building
501 Grant Street, Suite 200
Pittsburgh, Pennsylvania 15219
BY: GRETCHEN JANKOWSKI, ESQ.
gretchen.jankowski@bipc.com
Counsel for the Plaintiff

GreenspoonMarder, LLP
One Riverfront Plaza
1037 Raymond Boulevard, Suite 900
Newark, New Jersey 07102
BY: EVAN M. GOLDMAN, ESQ.
evan.goldman@gmlaw.com
Counsel for the Defendants

ALSO PRESENT: Vidmantas Rapsys (no video)

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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DIANE MARCKS

By: Mr. Goldman 4

EXHIBITS MARKED FOR IDENTIFICATION

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(Exhibits were marked and retained by Mr. Goldman.)

1 D I A N E M A R I E M A R C K S, 2597 Southeast
2 12th Street, Pompano Beach Florida 33062, first
3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. GOLDMAN:

5 Q. Good morning, Ms. Marcks. My name is
6 Evan Goldman, I'm a partner at the law firm of
7 Greenspoon Marder, LLP. I represent the defendants
8 in this matter, GPI, LLC vs. Rapsys, Incorporated,
9 which matter is pending in the United States
10 District Court for the District of New Jersey. I
11 will refer to that as "the litigation" or "the
12 lawsuit"; is that okay?

13 A. Yes.

14 Q. Thank you. Just while we're on the
15 record, could you please state your full name for
16 the record?

17 A. Diane Marie Marcks.

18 Q. Thank you. Are you familiar with the
19 litigation --

20 MS. JANKOWSKI: Before you get
21 started, Evan, I just want to make sure that we have
22 on the record that all objections except as to form
23 are reserved until trial. Correct?

24 MR. GOLDMAN: Understood.

25 MS. JANKOWSKI: Okay. Go ahead.

1 Q. Sorry, Ms. Marcks, are you familiar
2 with the litigation I mentioned earlier?

3 A. Yes.

4 Q. And are you familiar with the
5 underlying relationship between GPI, LLC and Vid
6 Rapsys and his entity?

7 A. Yes.

8 Q. Okay. What is your role with GPI, LLC,
9 if any?

10 A. I am -- I was the operating member or
11 president.

12 Q. Operating member and president, you
13 said?

14 A. And what?

15 Q. President? Did I hear you correct?

16 A. Yes.

17 Q. All right, and I'll get back to that in
18 a minute. Have you ever been deposed before?

19 A. Yes.

20 Q. How many times have you been deposed?

21 A. Once.

22 Q. Okay. How long ago is that?

23 A. About 34 years ago.

24 Q. So it's been some time since you've
25 been deposed, fair to say?

1 A. Correct.

2 Q. All right. So I'm going to go through
3 just some ground rules, and just for the record,
4 before I do, Mr. Pilsner just joined remotely. I'm
5 going to go through some ground rules just to
6 hopefully make this go smoothly and efficiently.

7 Do you understand you are under oath
8 and your testimony may be used at trial in this or
9 other matters?

10 A. Yes.

11 Q. Particularly because we're on Zoom,
12 it's important that you understand my questions and
13 we allow each other to finish. To that extent, you
14 know, the court reporter cannot understand nods of
15 the head or other nonaudible gestures, so I would
16 just ask that you speak loudly and clearly and
17 audibly, if that's okay.

18 If you under -- I'm sorry, if you
19 answer my question, I will presume you understood
20 it. If you do not understand my question, please
21 let me know and I'm happy to rephrase it. Does that
22 work?

23 A. Yes.

24 Q. Most importantly, if your attorney
25 objects, please let her make her objection before

1 answering, and as a general rule, I'd rather you not
2 guess. To the extent you're making an estimate or
3 something, please let us know in advance that you
4 are making an estimate but don't just guess, and I'm
5 sure your counsel would appreciate that instruction.

6 If you need a break, you know, just
7 ask. This isn't a torture chamber, you know, if
8 there's a pending question, I'll ask that you answer
9 it, but otherwise, take as many breaks that you need
10 throughout the day. Is that okay with you?

11 A. Thank you.

12 Q. Is there any reason you cannot testify
13 truthfully today?

14 A. No.

15 Q. Okay. In preparation for today's
16 deposition, did you review any documents?

17 A. I didn't hear you, I'm sorry.

18 Q. Okay.

19 (Background noise)

20 Q. I don't know who just spoke, I'm sorry.

21 A. I said I didn't hear you.

22 Q. Okay, thank you.

23 In preparation for today's deposition,
24 did you review any documents?

25 A. Yes.

1 Q. What documents did you review?

2 A. The testimony of Jeremy and Vid.

3 Q. Okay. I understand -- not I
4 understand, I know Mr. Rapsys was deposed twice.
5 Did you review both of his deposition transcripts or
6 just one?

7 A. Yes, both.

8 Q. Any other documents besides the
9 deposition transcripts?

10 A. No.

11 Q. In preparation for today's deposition,
12 did you speak to anyone?

13 A. No. My attorney.

14 Q. Besides your attorney, did you speak to
15 any current or former member or employee or officer
16 of GPI, LLC or Geese Police, Inc.?

17 A. Just my office manager, Jeremy Brown.

18 Q. And you spoke to your attorneys; is
19 that correct?

20 A. Correct.

21 Q. I'm not going to ask you anything about
22 your conversations with your attorneys, but what did
23 you speak to Mr. Brown about?

24 A. About what was happening with the
25 business of the day.

1 Q. Sorry, when you say "the business of
2 the day," do you mean the ongoing business
3 operations of Geese Police, Inc. or GPI, LLC, or do
4 you mean in the litigation?

5 MS. JANKOWSKI: Objection to form.
6 You may answer.

7 A. No, the daily business of Geese Police
8 in New Jersey.

9 Q. Okay. Thank you.
10 Can you approximate how many hours or
11 minutes you spent preparing for today's deposition,
12 both in speaking to Mr. Brown and to your counsel?

13 A. Maybe five and a half, six hours.

14 Q. Thank you.

15 A. You're welcome.

16 Q. You said earlier that you were the
17 operating partner and president of GPI, LLC; is that
18 correct?

19 A. Yes.

20 Q. Okay. Do you have any role with GPI,
21 LLC as of today?

22 A. No.

23 Q. Okay. When you -- strike that.

24 When were you last formally involved
25 with GPI, LLC?

1 A. December 31 of '22.

2 Q. And what happened on 1/1/23 [sic] that
3 changed your involvement?

4 A. GPI, LLC was gifted to my late
5 husband's nephew, Craig Neveras.

6 Q. And when you say "gifted," do you mean
7 gifted with no remuneration paid back to you?

8 A. Correct.

9 Q. And at the time you gifted GPI, LLC to
10 Mr. Neveras, were you the only LLC member of the
11 entity?

12 A. Yes.

13 Q. And let me start by saying my
14 condolences; I understand your husband passed away
15 about 18 months ago, so my condolences for that.

16 A. Thank you.

17 Q. Was he -- before his passing, was he a
18 member of GPI, LLC?

19 A. Yes.

20 Q. Okay. And at the time of his passing,
21 were you and he the only members of GPI, LLC?

22 A. After his passing?

23 Q. At the time of his passing.

24 A. No.

25 Q. Who else was a member of GPI, LLC while

1 --

2 A. David Marcks and Diane Marcks.

3 Q. Okay, so it was just the two of you
4 until he passed and then it became just you,
5 correct?

6 A. Correct.

7 Q. Okay. When did you become a member of
8 GPI, LLC?

9 A. After we were married in 2012.

10 Q. And prior to you becoming a member in
11 2012, was Mr. Marcks the only member of GPI, LLC?

12 A. Yes.

13 Q. And do you understand, is that true
14 from the beginning of GPI, LLC until 2012?

15 A. I have no knowledge of that.

16 Q. Okay. Are you aware of anyone else
17 that was ever a member of GPI, LLC besides you, Mr.
18 Marcks and now Mr. Neveras?

19 A. Diane Neveras possibly may, I'm not
20 sure.

21 Q. Okay. Would that have been prior to
22 2012 when you and Mr. Marcks married?

23 A. Yes.

24 Q. Understood. Thank you.

25 Are you currently employed by any

1 entity or person?

2 A. No.

3 Q. Do you have any role in Geese Police,
4 Inc.?

5 A. Yes, I am the operating president of
6 Geese Police, Inc.

7 Q. Geese Police, Inc. is a corporation,
8 correct?

9 A. Yes.

10 Q. Are you a shareholder of Geese Police,
11 Inc.?

12 A. I'm 100 percent, yes.

13 Q. Okay, so you're the sole and exclusive
14 shareholder; is that correct?

15 A. Yes.

16 Q. Okay. In your role as president of
17 Geese Police, Inc., what are your day-to-day duties
18 and function, if any?

19 A. I basically oversee the operation
20 between my four managers and myself.

21 Q. And what is the business of Geese
22 Police, Inc.?

23 A. Repeat that, please?

24 Q. What is the business of Geese Police,
25 Inc., what do they do or did they do?

1 A. They herd -- they herd geese off of
2 corporate part of parks, school yards, cemeteries,
3 playgrounds, city parks.

4 Q. What are the what I'll call
5 "territorial limitations" of Geese Police, Inc.?

6 A. I didn't understand that question.

7 Q. Fair enough. It's probably a poorly
8 worded question.

9 Where does Geese Police, Inc. operate?

10 A. Right now, the home office is at 5050
11 West Hurley Pond Road in Wall, New Jersey.

12 Q. Okay. As I understand from Mr. Rapsys
13 and Mr. Brown, the herding occurs at the corporate
14 parks and the cemeteries and school grounds or
15 whatever the other options are. What are the --
16 sort of what territory does Geese Police operate
17 that business in?

18 A. New Jersey and the five boroughs of
19 New York.

20 Q. How long have you served as president
21 of Geese Police, Inc.?

22 A. Since my husband's death in January of
23 '22.

24 Q. Prior to that, did you have any role at
25 Geese Police, Inc.?

1 A. No.

2 Q. With respect to GPI, LLC, I understand
3 you're currently president, have you always been
4 president?

5 MS. JANKOWSKI: Objection to form.

6 Q. You can answer.

7 A. GPI, did you say?

8 Q. Correct, yes.

9 A. No. I was 50 percent shareholder.

10 Q. Okay. Prior to your husband's passing,
11 did you have any operational role at GPI, LLC?

12 A. No.

13 Q. Is it fair to say that your husband was
14 in full operational control of GPI, LLC before his
15 passing?

16 A. Yes.

17 Q. And is it fair to say you took over
18 that role from him upon his passing?

19 A. Yes.

20 Q. Okay. Did you have any title at GPI,
21 LLC prior to his passing?

22 A. No.

23 Q. Do you know who Vid Rapsys is?

24 A. Who? Sorry?

25 Q. Do you know who Vid Rapsys is?

1 A. Yes.

2 Q. Okay. When was the first time you met
3 Mr. Rapsys?

4 A. Probably 2012/2013, I'm not sure.
5 Right after I was married to Dave Marcks.

6 Q. Have you ever operated -- strike that.
7 Have you ever been involved in the
8 actual operation of herding geese with border
9 collies?

10 A. Service with my husband, yes.

11 Q. Is it fair to say he was active in the
12 actual operation of geese herding?

13 A. Yes, I was.

14 Q. Are you familiar in that role with the
15 general commands that are given to border collies to
16 remove geese from property?

17 A. Yes.

18 Q. Prior to your husband's passing, were
19 you an employee of Geese Police, Inc.?

20 A. No.

21 Q. Were you attending those service calls,
22 and I don't say merely in this way, but merely as
23 the spouse of Mr. Marcks?

24 A. Yes.

25 Q. To your knowledge, what is GPI, LLC,

1 and by that, I mean what does GPI, LLC do, what does
2 it offer, et cetera?

3 MS. JANKOWSKI: Objection to form.

4 MR. GOLDMAN: That's fine. You can
5 answer.

6 A. I don't think I quite understand your
7 question, but that would be the franchise section of
8 Geese Police operation.

9 Q. Okay. And if one becomes a franchisee
10 of GPI, LLC, what do they receive from GPI?

11 A. Receive one-on-one training -- well,
12 at the time, it was with my husband David at the
13 farm where we keep our dogs and our animals for
14 training. They would spend several days at the
15 farm, if not a week or two; they would go to various
16 locations, my husband would take them to various
17 locations where there was geese and he would show
18 them the procedures for herding the geese; he would
19 spend time in the state or area where the franchise
20 is to show them how to look for business, how to
21 call upon customers; they would search the area for
22 potential customers; he would go over the training
23 with the dogs and the commands as well.

24 Q. Thank you for that information.

25 A. You're welcome.

1 Q. To your knowledge, when did Mr. Rapsys
2 become a franchisee of GPI, LLC?

3 A. Did you say what time?

4 Q. When, what time frame, approximately,
5 yes.

6 A. I don't know. I know it began
7 probably the end of '98 and into '99, I'm not sure
8 exactly when he came under contract.

9 Q. And that's fine. Thank you.

10 To your knowledge, what training or
11 guidance was Mr. Rapsys provided in 1998 or 1999
12 when he became a franchisee?

13 A. I only know what I've read and he
14 spent -- one or two times, he was at the farm where
15 we keep Geese Police dogs and we do the training,
16 the final training on all border collies before
17 they're put on the road. I know he spent time,
18 maybe one or two weeks, in Farmingdale at the farm
19 and I know Dave spent one or two visits to his
20 properties and taught him how to approach customers,
21 to look for business, to look for geese. That's all
22 I know.

23 Q. And is that independent knowledge you
24 have or is that based on your reading of the
25 deposition transcripts you reviewed in advance of

1 today's deposition?

2 A. Both. I was well aware of the
3 situation with Vid, and my husband and I spoke many
4 times on the situation with Vid and his
5 relationship, and I did have the opportunity to meet
6 Vid in person.

7 Q. When was that, approximately?

8 A. It was more than once, on the various
9 conferences that Geese Police hold.

10 Q. Okay. And you said you had a number of
11 conversations with your late husband regarding Mr.
12 Rapsys. Can you tell me about that?

13 A. Well, in the beginning, Dave was very
14 proud of him and he was -- he had reached the
15 highest producing franchise at one time, maybe even
16 twice, but then the relationship got sour and our
17 conversations at that point were private.

18 Q. I'm not sure I understand that comment.
19 If you had conversations -- and I'm only asking
20 about conversations with respect to Mr. Rapsys, I
21 don't care about anything else, obviously. I think
22 there's ample reason for you to provide that
23 information, so if you had conversations with Mr.
24 Marcks prior to his passing regarding Mr. Rapsys
25 other than the one you just referenced, can you tell

1 me about those?

2 A. He had reached his point where it was
3 all over, there was no more talking, there was no
4 more accepting the fact that he was irresponsible,
5 and my husband had reached his point where it was
6 going to end.

7 Q. What was going to end? I'm sorry.

8 A. The relationship and the franchise.

9 Q. Okay, and approximately when was it
10 accepted to end?

11 A. He was very sick, so it was an ongoing
12 conversation. I would imagine that he thought he
13 was -- would, at one point, get better and address
14 the situation himself with Vid.

15 Q. To your knowledge, did Mr. Marcks ever
16 express any of this to Mr. Rapsys directly?

17 A. Oh, many times.

18 Q. To your knowledge, were these
19 conversations or communications by phone, e-mail,
20 text message, fax, something else?

21 A. Well, I can only attest to the fact
22 that I heard the conversations, so there was verbal
23 conversations, and of course, I did see that there
24 were some e-mails or messages, text messages, as
25 well.

1 Q. Do you know approximately how many
2 conversations they had, verbal conversations?

3 A. Over the years?

4 Q. No, sorry, strike that. Do you know
5 approximately how many verbal conversations they had
6 after Mr. Marcks decided he was going to end the
7 franchise relationship with Mr. Rapsys?

8 A. I'd say I was witness to two or
9 possibly three verbal messages or telephone
10 conversations.

11 Q. Perfect. Thank you.

12 Pry to his passing, is it fair to say
13 that your husband was an expert in the geese-herding
14 space?

15 A. He was the first -- the original in
16 the concept, yes. Excellent.

17 Q. Going back for a second to the
18 conversations regarding Mr. Rapsys, did you and Mr.
19 Marcks ever discuss Mr. Rapsys attempting to
20 renegotiate his contractual relationship with GPI,
21 LLC?

22 A. To my knowledge, no.

23 Q. And so you wouldn't be aware that if
24 they were having these conversations in 2017 or 2018
25 or so on, that there were ongoing conversations?

1 A. Yes. Just my husband's side of it, I
2 heard.

3 Q. Okay, and what was your husband's side
4 of these negotiations over the contractual
5 relationship?

6 MS. JANKOWSKI: Objection to form.
7 You may answer.

8 A. Very verbal disapproval and discussed
9 his performance, Vid's performance.

10 Q. Okay, and what was discussed -- I think
11 that was the word you used -- with Vid's
12 performance?

13 A. He wasn't performing at all; he wasn't
14 sending any of his reports, he wasn't sending in his
15 payment for the service, he wasn't paying his life
16 insurance, he wasn't paying for dogs he owed for
17 years, and he wasn't paying on the checks that he
18 deposited in his account that were New Jersey Geese
19 Police checks, and to date, they are still open.

20 Q. Subsequent to the franchise agreements
21 expiring in 2019, what services did GPI, LLC provide
22 to Mr. Rapsys or his entity?

23 A. He had benefit of the internet with
24 the main office, he had all the sales leads that
25 were sent to him from the main office, and like I

1 said, he was -- his bills were getting paid from
2 Geese Police and he wasn't paying for them, but we
3 still paid for them.

4 Q. Okay, so -- I'm just going to break
5 that down a little bit. So I understand there's
6 some life insurance policy that was purchased for
7 Mr. Rapsys that was paid for -- strike that.

8 I understand there was some life
9 insurance that Mr. Rapsys had, either for himself or
10 for his employees, that required payment; is that
11 correct?

12 A. Correct.

13 Q. And it's your testimony that, at some
14 point in time, he didn't pay the entirety of the
15 amounts owed.

16 A. That's correct.

17 Q. Okay. Then there are actual physical
18 dogs that were purchased from GPI; is that correct?

19 A. Correct.

20 Q. Okay. And it's your testimony that he
21 didn't pay for some or all of those dogs; is that
22 correct?

23 A. After five years, he made the final
24 payment on the last dog he purchased, I believe that
25 was two or three months ago, he finally made the

1 payment after five years.

2 Q. And that's during the pendency of this
3 litigation?

4 A. Pardon me?

5 Q. And he made that payment during the
6 pendency of this litigation?

7 A. Yes.

8 Q. Okay. All right, so we got dogs. At
9 the beginning of your answer a minute ago, and I
10 didn't hear you so I apologize, either the benefit
11 of the internet or the intranet and I'm not sure
12 which word you used.

13 A. The internet, the website.

14 Q. Oh, okay. And what's the benefit of
15 the website to Mr. Rapsys from 2019 forward?

16 A. Geese Police is the most well-known,
17 the first, largest business in the herding of geese.
18 It's throughout the whole United States, well known.

19 Q. Did you mention "sales leads" a minute
20 ago; is that right?

21 A. I'm sorry, what?

22 Q. Did you mention sales leads a minute
23 ago?

24 A. Yes. He was given constant sales
25 leads. They would call the home office and they

1 would be forwarded to Vid's office, yes.

2 Q. Do you know approximately how many
3 sales leads were provided to Mr. Rapsys during the
4 entire course of his franchise relationship with
5 GPI?

6 A. No, I don't.

7 Q. Would you say it's more or less than
8 ten?

9 A. Many more.

10 Q. Okay. More or less than 50?

11 A. That's hard for me to estimate, but
12 I'd say that's a good estimate.

13 Q. Approximately 50?

14 A. Sure.

15 Q. Okay. Of those approximately 50 leads,
16 how many were converted to clients, to your
17 knowledge?

18 A. I do not know, I have no knowledge of
19 what he did with our leads.

20 Q. Are you familiar with any of those
21 leads converting into actual clients?

22 A. I know the last one that the office
23 sent him, he didn't respond to because the customer
24 didn't call the home office back, so that's my only
25 knowledge.

1 Q. If I'm understanding you correctly,
2 you're not familiar with whether any of them
3 converted to leads, but you are familiar with at
4 least one where Mr. Rapsys allegedly didn't respond
5 to the prospective client?

6 A. That's correct.

7 Q. Do you know approximately when that
8 lead and nonresponse occurred?

9 A. No.

10 Q. Okay. Would you say it's before or
11 after February of 2019?

12 A. February what?

13 Q. Of 2019.

14 A. It was definitely after that, yes.

15 Q. Okay. So there were sales leads that
16 came through GPI, there were dogs that came through
17 GPI or its affiliate and there was life insurance
18 policies. What other benefits were provided to Mr.
19 Rapsys or his entity from February of 2019 forward?

20 A. Well, he continued to purchase our
21 uniforms, jackets, hats, whatever.

22 Q. That was after the franchise agreement
23 expired in February of 2019?

24 A. Yes.

25 Q. Do you know approximately how many

1 jackets or hats or uniforms he purchased after
2 February of 2019?

3 A. No, I don't.

4 Q. Do you know if he paid for those
5 jackets or hats or uniforms that he purchased after
6 2019?

7 A. I believe the invoice is still open.

8 Q. Okay. When the litigation that you're
9 here testifying for was filed, you were the sole
10 member of GPI, LLC; is that correct?

11 A. Yes.

12 Q. And you were paying the litigation
13 bills -- strike that.

14 And GPI, LLC was paying the litigation
15 bills associated with the litigation?

16 A. Yes.

17 (Background noise)

18 MR. GOLDMAN: I hear someone speaking.

19 MS. JANKOWSKI: You're hearing people
20 outside the door and in the lobby, that's what's
21 going on.

22 MR. GOLDMAN: Oh, okay.

23 MS. JANKOWSKI: Sorry.

24 MR. GOLDMAN: No, it's okay. Can you
25 guys hear me okay?

1 MS. JANKOWSKI: Yeah, we can hear you
2 fine, but that's what -- nobody in this room was
3 talking, you're getting background noise, Evan,
4 sorry.

5 MR. GOLDMAN: No, it's okay. Thank
6 you so much.

7 Q. So when the litigation was commenced in
8 July of 2022, you were the sole member, but you're
9 no longer the sole member of GPS, LLC, correct?

10 A. Yes.

11 Q. Who is responsible for the legal fees
12 associated with this litigation, you or Mr. Neveras?

13 MS. JANKOWSKI: Objection to form. Go
14 ahead. You may answer.

15 A. I said I am.

16 Q. Although you no longer own GPI, LLC,
17 you are still funding a litigation against Mr.
18 Rapsys; is that correct?

19 A. Yes.

20 Q. Can I ask you why?

21 A. It's my responsibility.

22 Q. Okay. But you no longer own GPI, LLC,
23 correct?

24 A. No.

25 Q. And do you have any financial interest

1 in the ongoing operations of GPI, LLC --

2 A. No.

3 Q. So -- and this is purely hypothetical,
4 but if GPI, LLC sold a hundred franchises next year
5 and made \$10 million, you would get zero of that; is
6 that correct?

7 A. Correct.

8 Q. So what is your incentive, if any, to
9 fund a litigation against a person who is a
10 franchisee of an entity over which you currently
11 have zero operational or financial interest?

12 A. When the litigation started, I never
13 expected it to be so prolonged, but of course, I do
14 -- do realize and did realize and understood that we
15 were going through the most difficult times ever
16 with the COVID situation and shutdown.

17 Q. Okay. Do you know approximately how
18 much money you and/or GPI have spent in furtherance
19 of this litigation?

20 A. Well over a hundred-thousand dollars.

21 Q. Okay. How long, to your knowledge, has
22 GPI or Geese Police, Inc. used the law firm of
23 Buchanan, Ingersol & Rooney?

24 A. Well, I believe they were -- I'm not
25 sure, but I believe they were the ones that

1 initially formed the contracts for GPI and GPI.

2 Q. Are you saying back in the late '90s?

3 A. Yes.

4 Q. To your knowledge, have they
5 consistently been your -- strike that.

6 To your knowledge, have they
7 consistently been GPI and Geese Police, Inc.'s
8 counsel, since that time frame?

9 A. Yes.

10 Q. Without going into any of your
11 conversations with counsel, and counsel will stop
12 you where she thinks the line should be drawn, what
13 is your hope or intention for moving forward with
14 this litigation now that you no longer have a
15 financial interest in GPI, LLC?

16 A. My original intent was to stop what I
17 would fear to be a cancer in the business, which I'm
18 afraid is at this point, and that's why I started --
19 or tried to stop it.

20 Q. Okay. And I can appreciate that, but
21 since you gifted the business to Mr. Marcks's nephew
22 at the beginning of this year, does the outcome have
23 any impact on you whatsoever anymore?

24 A. Yes.

25 Q. In what sense?

1 A. I hope to recoup some of the expense
2 of this litigation, number one, and prevent --
3 prevent this occurring in the future for my nephew.

4 Q. Okay.

5 MR. GOLDMAN: Can we take a two-minute
6 break, like a bathroom break?

7 MS. JANKOWSKI: Sure.

8 MR. GOLDMAN: Michele, off the record
9 for a second.

10 (Off-the-record discussion)

11 (Recess taken)

12 MR. GOLDMAN: Back on the record.

13 BY MR. GOLDMAN:

14 Q. Ms. Marcks, one question about -- you
15 said you were hoping to recoup some of your legal
16 expenses as part of this litigation. Do you have an
17 arrangement with Mr. Neveras that if there is a
18 payment of any amount from Mr. Rapsys or his entity
19 to GPI, LLC that you would get some of that money?

20 A. What was owed to our office, yes.

21 Q. And what do you mean by owed to your
22 office? I'm sorry.

23 A. During the time that we were the owner
24 of GPI.

25 Q. And by that, you mean the, and I think

1 you mentioned uniforms and --

2 A. That money that Vid owed the business,
3 yes.

4 Q. And do you have an approximation of how
5 much money that is?

6 A. I lost track. No. At this point, no.

7 Q. Would you say it's more or less than
8 \$50,000?

9 A. Yes.

10 Q. More or less? I'm sorry.

11 A. More.

12 Q. Okay. More or less than a hundred-
13 thousand dollars?

14 A. Less than a hundred.

15 Q. Okay, so if you were to recoup
16 somewhere between 50 and a hundred-thousand dollars
17 from Mr. Rapsys as part of this litigation, you have
18 an agreement with Mr. Neveras that that money would
19 be paid to you as an individual; is that correct?

20 MS. JANKOWSKI: Objection to form.

21 A. I am a little confused at that
22 question.

23 Q. Sure. Let me rephrase it.

24 So the lawsuit here is brought by GPI,
25 LLC, correct?

1 A. Yes.

2 Q. You, Diane Marcks, are not a party to
3 the litigation, correct?

4 A. Repeat that again?

5 Q. Sure.

6 A. Because I'm confused. I'm totally
7 confused.

8 Q. Okay. You, Diane Marcks, are not a
9 party to the litigation; is that correct?

10 A. No, I am. I believe I am.

11 Q. Hold on one sec. Let's see if I could
12 screen share here.

13 Ms. Marcks, can you see that?

14 A. Yes.

15 Q. Okay. And this is the lawsuit -- for
16 the record, it's Exhibit D-3, which is Document 1
17 filed in case No. 2:22-cv-04585. Do you see that?

18 A. No.

19 Q. Do you not see -- is it not on the
20 screen in front of you? I'm sorry.

21 MS. JANKOWSKI: It's on the screen,
22 but I don't think she understands your question.

23 MR. GOLDMAN: Thank you, Gretchen.

24 MS. JANKOWSKI: It's on the screen,
25 she can see it.

1 MR. GOLDMAN: Thank you.

2 Q. Do you see the words here, in the
3 middle, "Verified Complaint"?

4 A. Yes.

5 Q. And do you understand that this is the
6 filing or the pleading that started the litigation
7 against Mr. Rapsys?

8 A. Yes.

9 Q. Okay. And if you look here, there is a
10 singular plaintiff, GPI, LLC, correct?

11 A. Yes.

12 Q. Okay. You individually, Diane Marcks,
13 are not party to this litigation, correct?

14 A. Individually?

15 Q. Correct.

16 A. Yes.

17 Q. Okay. You are not a co-plaintiff, for
18 instance, in this case, correct?

19 A. Correct.

20 Q. Okay. So if, for instance, a judgment
21 was issued in favor of GPI, LLC that said Mr. Rapsys
22 had to pay some amount of money, who would get paid
23 that money in this lawsuit, to your knowledge?

24 MS. JANKOWSKI: Objection to form.

25 You may answer.

1 A. I would expect to recoup what he owed
2 us, what Vid Rapsys owed us.

3 Q. Okay. And I'm going to get into that
4 in one second, but I guess what I'm asking is: A
5 judgment in this case would result in Mr. Rapsys
6 being required to pay GPI, LLC some amount of money,
7 a dollar, a million dollars, whatever the number is,
8 correct?

9 MS. JANKOWSKI: Objection to form.

10 A. Yes.

11 Q. Okay. Is there an agreement with Mr.
12 Neveras, who is now the sole and exclusive member of
13 GPI, LLC, that he would reimburse you for your costs
14 as a result of any such award in this litigation?

15 A. I have not had that conversation with
16 him yet.

17 Q. So, hypothetically, if an award came
18 down for -- I'm going to make up a number -- \$10,000
19 and Mr. Rapsys paid GPI, LLC \$10,000, you have no
20 agreement with Mr. Neveras that you would get some
21 or all of that \$10,000?

22 A. Not yet.

23 Q. And you said the amount that you think
24 is outstanding is between 50 and a hundred-thousand
25 dollars, approximately, correct?

1 A. It's an estimate, yes.

2 Q. Okay. And that's made up of the checks
3 from JLL, which you mentioned earlier, uniforms,
4 which you mentioned earlier. What other categories
5 of obligations fall within that -- within that 50 to
6 a hundred-thousand dollars, approximately?

7 A. The sales commission that he didn't
8 pay and also the life insurance, which I believe
9 he's current on.

10 Q. When you say "the sales commission,"
11 you mean the royalty?

12 A. Yes, the royalties.

13 MR. GOLDMAN: Give me one moment.

14 (Pause)

15 Q. Did you review this document, which is
16 the Verified Complaint, before it was filed?

17 A. No.

18 Q. Even though at the time, you were the
19 sole and exclusive member of GPI, LLC?

20 A. Yes.

21 Q. And just in case you're unaware, it was
22 filed on July 14 of 2022. Do you see that?

23 A. Yes.

24 Q. Okay. What is your understanding of
25 the request or the relief being sought by way of

1 this Verified Complaint?

2 (Pause)

3 Q. Do you understand the question? I'm
4 sorry.

5 A. You can repeat the question.

6 Q. Sure. So what is your understanding of
7 what relief is being sought by GPI as a result of
8 this Verified Complaint?

9 A. That he would stop using the marks of
10 Geese Police, that we would recoup the money he owed
11 us and he would -- he would not do any more harm to
12 the GPI franchises.

13 Q. Are you familiar with an arbitration
14 that was filed by GPI, LLC against Mr. Rapsys and
15 his entity?

16 A. Yes.

17 Q. Okay. To your understanding, what is
18 the difference in the relief being sought in that
19 arbitration versus this litigation, if any?

20 A. I'm not sure.

21 Q. Okay. If you look at the -- this is
22 the Prayer For Relief; for the record, it's Page 21
23 of the Verified Complaint of Exhibit D-3. There are
24 certain categories, A through I, of requests as part
25 of the litigation. Do you see that?

1 A. Yes.

2 Q. Okay, and I'm going to go slowly so you
3 could see them. Right on the screen now is A, B and
4 C. Are any of these, to your knowledge, seeking
5 dollar amounts to be paid by Mr. Rapsys to GPI, LLC?

6 A. Well, that would have to be
7 considered. Off the top of my head, no.

8 Q. Okay. So is it fair to say that other
9 than legal fees, this litigation does not seek any
10 money from Mr. Rapsys?

11 A. That's not true.

12 Q. Okay. What does it seek?

13 A. The money that he still owes.

14 Q. Okay. It's your understanding that the
15 litigation pending in the United States District
16 Court for the District of New Jersey is seeking
17 reimbursement of the monies that Mr. Rapsys owes,
18 other than legal fees.

19 A. Well, according to our contract, we
20 had the right to audit his books, which was never
21 done, so what he owes is questionable at this point.

22 Q. Okay.

23 A. We were never -- we never reached the
24 point where we were allowed to review his books, and
25 he was not sending in his sales reports as required.

1 Q. Okay. And it's your understanding that
2 if you were to succeed in this litigation, "this
3 litigation" being the District of New Jersey
4 litigation, that Mr. Rapsys would have to reimburse
5 you for the royalties and other amounts that are due
6 and owing; is that correct?

7 A. Yes.

8 Q. Do you have any agreement with Mr.
9 Neveras as to who controls the decision-making for
10 the litigation?

11 A. This litigation is my -- under my
12 control.

13 Q. Meaning, and I'm just saying
14 hypothetically here, if Mr. Neveras said "Uh, I want
15 to settle this, I'll take \$1," he couldn't do that
16 without your agreement.

17 A. Correct.

18 MS. JANKOWSKI: Objection to form.

19 Q. Is this agreement in writing anywhere?

20 A. I'm sorry, what did you say?

21 Q. Is your agreement with Mr. Neveras that
22 you have full control over the litigation in writing
23 anywhere?

24 A. No.

25 Q. Was it part of the transfer of

1 membership interest or the gifting of membership
2 interest documents that were signed when the company
3 was gifted to Mr. Neveras?

4 A. No.

5 Q. This is a verbal understanding that you
6 and Mr. Neveras have?

7 A. Yes.

8 Q. When did you and Mr. Neveras come into
9 agreement as to this understanding?

10 A. There were many conversations on it.
11 I spoke with him just two nights ago.

12 Q. And what did you and Mr. Neveras speak
13 about two nights ago?

14 A. Well, we were discussing what's
15 happening in GPI.

16 Q. Do you mean what's happening in GPI in
17 terms of this litigation or the entities, just
18 general --

19 A. Well, the entity.

20 Q. And what's happening in GPI that you
21 and Mr. Neveras discussed?

22 A. There seems to be a lot of problems
23 that developed because of this litigation that I
24 blame Vid for.

25 Q. So going back to Page 1 of the

1 litigation, of the Verified Complaint, GPI is the
2 plaintiff here, correct?

3 A. Yes.

4 Q. And to your knowledge, that means GPI
5 filed a lawsuit against Mr. Rapsys, correct?

6 MS. JANKOWSKI: Objection to form.
7 You may answer.

8 A. Yes.

9 Q. Okay. Did Mr. Rapsys, to your
10 knowledge, file a lawsuit against GPI?

11 A. No.

12 Q. Okay.

13 (Technical difficulty)

14 Q. Is it fair to say that GPI initiated
15 the litigation, or litigation and arbitration,
16 against Mr. Rapsys and not the other way around,
17 correct?

18 A. Yes.

19 Q. Okay. I'll pull up another document;
20 give me a moment.

21 Ms. Marcks, I'm showing you what's been
22 marked as Exhibit D-6, Rapsys 194, for
23 Identification. Have you seen this document before?
24 And just tell me if you need me to scroll up or
25 down.

1 A. Yes.

2 Q. Yes, you've seen this document before?

3 A. Yes.

4 Q. Okay. And if we scroll down, this is a
5 letter -- I'm just trying to zoom out -- from you to
6 someone named Patty Deering. Do you see that?

7 A. Yes.

8 Q. Okay. And it says Ms. Deering is a
9 Community Association Manager in Plainfield,
10 Illinois. Do you see that?

11 A. I didn't -- you mumbled, I didn't hear
12 that.

13 Q. Sorry. It says that this is a -- I'm
14 sorry, it says that Ms. Deering, or Mr. Deering, is
15 a Community Association Manager in Plainfield,
16 Illinois; is that correct?

17 A. Yes.

18 Q. And this is a letter you sent on July
19 19 of 2022, correct?

20 A. Correct.

21 Q. Which is approximately five days after
22 the Verified Complaint was filed in litigation
23 you're testifying in today; is that correct?

24 A. I'm not clear.

25 Q. So I'll pause this and do a new share.

1 Do you see the Verified Complaint on the screen now?

2 A. Yes.

3 Q. And if you look at the very top here,
4 it says "file date." Do you see that?

5 A. Yes.

6 Q. And that's July 14 of 2022, correct?

7 A. Yes.

8 Q. Okay, so five days before the letter
9 that's been marked as Exhibit D-6, correct?

10 A. Yes.

11 Q. Okay. And is it fair to say that this
12 is you sending a letter to -- strike that.

13 To your knowledge, who is or was Patty
14 Deering?

15 A. Repeat that, please?

16 Q. To your Honor, who is or was Patty
17 Deering?

18 A. The manager of the -- Community
19 Association Manager, yes.

20 Q. Okay, and why would you be sending this
21 to Patty Deering?

22 A. To notify her of the -- that Rapsys
23 was no longer affiliated with Geese Police.

24 Q. And why were you doing that?

25 A. Because it was our intentions to make

1 sure that all of the Geese Police contracts that Vid
2 had be serviced.

3 Q. Were you aware of Mr. Rapsys not
4 servicing any of the contracts?

5 A. No, we had no knowledge.

6 Q. So fair to say you had no knowledge of
7 any contracts that weren't being serviced, correct?

8 A. We had no knowledge whether he was
9 servicing any of the accounts he had on file.

10 Q. To your knowledge, how did you get
11 Patty Deering's information?

12 A. From our web -- from our system.

13 Q. Okay. And --

14 A. From our system.

15 Q. And why were they in your system?

16 A. It's part of procedure.

17 Q. Okay. To your knowledge, were they a
18 customer of Mr. Rapsys?

19 A. Yes.

20 Q. To your knowledge, did you send out
21 more than just one letter to other customers of Mr.
22 Rapsys?

23 A. Yes.

24 Q. Do you know approximately how many
25 customers you sent this type of letter to?

1 A. No, I don't remember. Maybe 20.

2 Q. Okay. As a result of the letter to
3 these approximately 20 clients, did you begin
4 servicing any of these clients?

5 A. No.

6 Q. Thank you.

7 You mentioned earlier that you were
8 hoping that this litigation would stop -- and I'm
9 paraphrasing -- stop Mr. Rapsys from causing harm or
10 doing any more harm to the franchisees. Do you
11 remember that?

12 A. Yes.

13 Q. Okay. What did you mean by that?

14 A. Because he was complaining and letting
15 several of the other franchises know that he was not
16 going to pay the royalties and that we were in
17 litigation.

18 Q. Okay.

19 A. And...

20 MS. JANKOWSKI: Are you finished?

21 Q. I'm sorry, keep going.

22 A. And they were using our marks, they
23 were servicing, we found out, the accounts, and they
24 were waiting to see what would happen in Vid's trial
25 and how he fared out.

1 Q. Understood. You said that Mr. Marcks
2 -- I'm sorry, strike that. Excuse me.

3 You said Mr. Rapsys was telling other
4 people that GPI sued him, correct?

5 A. Yes.

6 Q. But that had to have -- naturally, it
7 would have had to have occurred after the suit was
8 filed, correct?

9 A. Yes.

10 Q. Okay. So you didn't file the suit in
11 order to stop Mr. Rapsys from talking about the
12 suit; is that fair to say?

13 MS. JANKOWSKI: Objection to form.

14 A. I didn't understand that question.

15 Q. Fair enough. You didn't file a lawsuit
16 on July 14 to stop Mr. Rapsys from discussing a
17 lawsuit which, on July 13, hadn't been filed as of
18 yet, correct?

19 A. Correct.

20 Q. And to the extent you hadn't sued Mr.
21 Rapsys, you wouldn't have -- strike that. I'll
22 withdraw that question.

23 You mentioned other franchisees
24 desiring to -- or watching what happened with Mr.
25 Rapsys; is that correct?

1 A. Yes.

2 Q. Approximately how many other
3 franchisees do you believe are watching what happens
4 here to decide their own outcome?

5 A. Six.

6 Q. Six. And who are those six?

7 A. Dave Swickard.

8 Q. Okay.

9 A. Doug Marcks.

10 Q. Okay.

11 A. Rich LaPorta.

12 Q. Okay.

13 A. You're putting me on the spot. I
14 don't remember the last name, I'm sorry.

15 Q. So if I understood you correctly, you
16 said there were six franchisees --

17 A. Yeah, the Wyatts, that's five, and
18 Elliott, Elliott Aran (phonetic), that's six.

19 Q. You just can't remember one of them; is
20 that fair?

21 A. No, I think I named all six.

22 Q. So correct me if I'm wrong, I have
23 Swickard, Marcks, LaPorta, Wyatt, Elliott something.

24 A. Yeah, Elliott and Rich LaPorta.

25 Q. So I'm going to go slowly. Swickard,

1 Doug Marcks, LaPorta, the Wyatts and Elliott.

2 That's five.

3 A. Our Massachusetts office, I forget his
4 name.

5 Q. Okay. That's fair.

6 A. I'm sorry.

7 Q. Nope, that's fine.

8 So you believe that these six
9 franchisees are watching to see what happens with
10 Mr. Rapsys's case to make a decision as to their own
11 relationship with GPI?

12 A. Correct.

13 Q. What impact, if any, would -- if all
14 six of them decided to leave the system, what
15 impact, if any, would that have on you, Ms. Marcks?

16 A. On me directly?

17 Q. Correct.

18 A. None.

19 Q. That's because you have no financial
20 interest in GPI, LLC, correct?

21 A. Well, I think I need to -- they're
22 operating under the Geese Police marks, which I
23 still own, and Vid was using the Geese Police marks
24 while claiming he wasn't under contract, and that is
25 what I am concerning myself with and I will do

1 everything to protect those marks, or the use of
2 those marks.

3 Q. Okay. To your knowledge, as of today,
4 is Mr. Rapsys using the Geese Police marks in any
5 way?

6 A. As what?

7 Q. To your knowledge, as of today, is Mr.
8 Rapsys using the Geese Police marks in any way?

9 A. Today, no. He still has Geese Police
10 active, however.

11 Q. What do you mean by that? I'm sorry.

12 A. It's still recorded that he's still
13 active with Geese Police.

14 Q. Recorded where? I'm not following.

15 A. The State of Illinois.

16 Q. It's your testimony that in the State
17 of Illinois, Mr. Rapsys is still designated with
18 Geese Police?

19 A. Yes.

20 Q. As of today, May 24, 2023?

21 A. I don't know today specifically, but
22 it was as of a week ago, yes.

23 Q. Okay, that's fair.

24 Other than that, fair to say Mr. Rapsys
25 is not using the Geese Police marks in any way,

1 correct?

2 A. As far as I know, yes, correct.

3 Q. Understood. And with respect to the
4 six franchisees -- rather than name them, I'll just
5 call them "the six franchisees," if that's okay with
6 you. Are they currently using the Geese Police
7 marks?

8 A. I believe so.

9 Q. Are they all permitted to do so, either
10 contractually or otherwise, at the moment?

11 A. As of this -- today, I believe they
12 have, yes, for a couple more days, yes.

13 Q. Okay. And so no one, to your
14 knowledge, has misused the Geese Police marks as a
15 result of Mr. Rapsys, correct?

16 A. No, that's not correct.

17 Q. Okay. Who has misused the Geese Police
18 marks as a result of Mr. Rapsys?

19 A. Doug Marcks.

20 Q. Okay, and how has Doug Marcks misused
21 the Geese Police marks?

22 A. He's still -- he's still under
23 contract with Geese Police to customers and on his
24 vehicles and his invoicing.

25 Q. Okay, my understanding from your

1 testimony a moment ago is, as of today, Mr. Marcks
2 still has a license, pursuant to a franchise
3 agreement or otherwise, to use the Geese Police
4 marks; is that correct?

5 A. Well, he's not under contract. Maybe
6 "license" and "contract" is confusing me but --

7 Q. That's fair.

8 A. -- he -- no as of -- my knowledge, as
9 of today, he is not under contract and still using
10 the Geese Police marks.

11 Q. Okay. And do you have any familial
12 relationship with Mr. Marcks, Doug Marcks in this
13 case?

14 A. He's my nephew.

15 Q. Have you sent -- strike that.

16 Has anyone on behalf of the Geese
17 Police marks sent Doug Marcks a cease and desist
18 with respect to his purported misuse of the Geese
19 Police marks?

20 A. Yes.

21 Q. Okay. What was sent to Mr. Marcks?

22 A. The letter.

23 Q. And --

24 A. That he's in default and to cease and
25 desist.

1 Q. He's in default of what?

2 A. Of our agreement, and he was not -- he
3 refused to sign a new contract pending the
4 litigation of Vid Rapsys.

5 Q. So did his franchise agreement expire?

6 A. Yes.

7 Q. And it was not renewed?

8 A. Yes.

9 Q. And it's your testimony that Mr. Marcks
10 continued using the Geese Police marks after the
11 expiration of his franchise agreement?

12 A. Yes.

13 Q. When you said you sent him a notice of
14 default or a letter of default, default of what --
15 he was in default of what document or what
16 agreement?

17 A. Not signing -- renewing or signing the
18 contract or renewal and while still operating with
19 the Geese Police marks.

20 Q. Have you filed litigation against Doug
21 Marcks?

22 MS. JANKOWSKI: I'm going to object --
23 I'm going to object and instruct her not to answer.
24 You're getting into privileged information at this
25 point.

1 MR. GOLDMAN: I'm not asking if she
2 will or anything, I'm asking, as a factual matter,
3 is a litigation -- has a litigation been filed. I
4 don't think there's any privilege to that fact.

5 MS. JANKOWSKI: No, I'm going to
6 instruct her not to answer --

7 THE WITNESS: Okay.

8 MS. JANKOWSKI: -- the question.

9 MR. GOLDMAN: Give me one moment.

10 (Pause)

11 Q. Did you -- strike that.

12 When you were with GPI, LLC, did GPI,
13 LLC or yourself communicate with the franchisees
14 after litigation was filed against Mr. Rapsys to
15 notify them that that litigation had been filed?

16 A. A letter was sent, yes.

17 Q. Okay. And what was the sum and
18 substance of that letter?

19 A. That we were in dispute or in
20 litigation and -- I don't recall the wording.

21 Q. Okay. And do you recall approximately
22 how many days, weeks or months after the litigation
23 was filed that that document was sent?

24 A. I don't recall.

25 Q. To your knowledge -- strike that.

1 How many franchisees was that document
2 sent to, approximately?

3 A. Approximately 12.

4 Q. 12 franchisees. To your knowledge,
5 were you the first one informing those 12
6 franchisees that litigation had been filed against
7 Mr. Rapsys?

8 A. I missed it, I'm sorry.

9 Q. That's okay. My question is: Were you
10 the first to notify those 12 franchisees that a
11 litigation had, in fact, been filed against Mr.
12 Rapsys?

13 A. Most likely.

14 Q. Why did you notify those 12 franchisees
15 that it had been filed?

16 A. I felt they needed to know.

17 Q. How many franchisees does GPI have as
18 of today, to your knowledge?

19 A. I believe 12; I'm not sure.

20 Q. Who was in charge of sales to new
21 franchisees at GPI from January of 2022 to December
22 of 2022?

23 A. The Wall Township office.

24 Q. Any particular person or people?

25 A. Jeremy Brown.

1 Q. And was Jeremy Brown permitted to sell
2 a franchise on his own accord or did he have to get
3 your approval during that time period beforehand?

4 A. No, he was not -- he did not sell.

5 Q. Do you know the last time GPI sold a
6 franchise?

7 A. I'm not sure.

8 Q. Do you know the last time GPI was
9 registered with the State of Illinois to sell
10 franchises in the State of Illinois?

11 A. I'm not sure.

12 Q. Did GPI take any affirmative steps to
13 sell franchisees to the general public?

14 MS. JANKOWSKI: Objection to form.

15 Q. If you understood, you can answer.

16 A. Would you repeat that?

17 Q. Sure. What affirmative steps did GPI
18 take to sell franchises to the general public?

19 MS. JANKOWSKI: Same objection.

20 MR. GOLDMAN: Understood.

21 A. Well, there was several sources. Our
22 website mostly. My husband did trade shows, fairs,
23 he was guess speaker at many organizations, stuff
24 like that.

25 Q. Did --

1 A. (Indiscernible)

2 Q. I'm sorry, please finish.

3 A. No, that's it.

4 Q. Since your husband's passing in January
5 of 2022, what efforts, if any, has GPI, LLC made to
6 sell franchisees to the general public?

7 A. If we had an inquiry for a new
8 franchise, it was given to Craig Neveras because it
9 was my intention that he take over GPI and he should
10 be the one to handle any new inquiry.

11 Q. In the 16 or so months since your
12 husband passed, have you had any inquiries for
13 franchisees?

14 A. Have I had any?

15 Q. Has GPI?

16 A. (Indiscernible)

17 COURT REPORTER: I'm sorry, Ms.
18 Marcks, I didn't hear you.

19 A. The office did, yes, and they were
20 forwarded to Craig Neveras.

21 Q. Who received them and who forwarded
22 them to Mr. Neveras?

23 A. Most likely, Jeremy Brown.

24 Q. Okay. Do you know approximately how
25 many inquiries were received by Mr. Brown and

1 forwarded to Mr. Neveras?

2 A. I believe two or three.

3 Q. Do you know approximately where in the
4 country those two or three were located?

5 A. No.

6 Q. To your knowledge, were any of them in
7 the State of Illinois?

8 A. I don't know.

9 Q. Did GPI have a Franchisee of the Year
10 award or something similar?

11 A. Yes.

12 Q. Okay. To your knowledge, did Mr.
13 Rapsys ever win that award?

14 A. Yes.

15 Q. Do you know approximately how many
16 times he won that award?

17 A. I may be wrong, but I believe it was
18 2009.

19 Q. Just one time?

20 A. No, I believe he had it two or three
21 years in a row. That was prior to my knowledge of
22 the operation.

23 Q. After you came aboard in or about 2012,
24 are you aware of Mr. Rapsys winning the Franchisee
25 of the Year award in any particular year?

1 MS. JANKOWSKI: Objection to form.

2 A. There was one conference I attended
3 and he did get an award. I don't -- it might have
4 been 2014; I'm not sure.

5 Q. Okay. Since, let's call it 2014, has
6 GPI ever issued a Franchisee of the Year award to
7 any other franchisee?

8 A. I have no knowledge.

9 Q. Okay. To your knowledge, prior to GPI
10 suing Mr. Rapsys, did Mr. Rapsys ever speak
11 negatively about GPI to any other franchisee?

12 A. Did he what? I'm sorry.

13 Q. Speak negatively about GPI to any other
14 franchisee, prior to the lawsuit being filed.

15 A. I have no way -- no, I can't answer
16 that.

17 Q. Prior to the lawsuit being filed, what,
18 if anything, did Mr. Rapsys do to harm GPI's
19 business reputation, if at all?

20 A. You know, there was one conference,
21 I'll give you an example, he was very bitter. It
22 was sponsored by the Wyatts, and I walked into the
23 kitchen of Sally Wyatt and Vid was bad- mouthing my
24 husband and I was, like, in total shock and they
25 didn't see me and when he turned around, of course,

1 the conversation stopped. Yes, he did.

2 Q. Okay. And what year, approximately,
3 was this, to your knowledge?

4 A. I'm not sure what conference that was,
5 but it was sponsored by the Wyatts. I would have to
6 look back and find out what year that was.

7 Q. When was the last conference that was
8 held by GPI?

9 A. 2017, I believe.

10 Q. So approximately six years ago?

11 A. That might have been the conference.
12 That might have been the conference, I'm not sure.

13 Q. So that conversation happened
14 approximately six years ago?

15 A. That's probably fair to say, yes.

16 Q. Okay. And to your knowledge, did any
17 of the franchisees that heard those purported
18 comments depart the GPI system prior to July of
19 2022?

20 A. No, I have no knowledge.

21 Q. Have you ever read any of GPI's
22 franchise disclosure documents or FDDs?

23 A. No.

24 Q. Are you familiar when the last time GPI
25 issued an FDD?

1 A. No.

2 Q. Do you understand that as a matter of
3 federal law, you need an FDD in order to sell
4 franchisees in the United States?

5 MS. JANKOWSKI: Objection to form.

6 MR. GOLDMAN: That's fine.

7 MS. JANKOWSKI: You can answer.

8 A. Yes.

9 Q. And without such FDD, it would be
10 legally impermissible to sell a franchise; do you
11 understand that?

12 MS. JANKOWSKI: Objection to form.

13 A. I don't understand your question.

14 Q. You understand that an FDD is required
15 in order to sell a franchise, correct?

16 A. Yes.

17 MS. JANKOWSKI: Objection to form.

18 Q. You said "yes?"

19 MS. JANKOWSKI: Just let me get the
20 objection out. She answered "yes."

21 MR. GOLDMAN: Thank you.

22 Q. And meaning if you don't have an FDD,
23 you can't sell a franchise, correct?

24 MS. JANKOWSKI: Objection to form.

25 A. Yes.

1 Q. And you don't recall the last time GPI
2 issued an FDD; is that correct?

3 A. Correct.

4 Q. Do you remember the last time an FDD
5 was sent to a perspective franchisee?

6 A. No.

7 Q. Do you remember the last time GPI
8 signed on a new franchisee?

9 MS. JANKOWSKI: Objection to form.
10 You can answer.

11 A. No.

12 Q. Over the last, let's call it -- strike
13 that.

14 In the last six years since that
15 purported conversation in the Wyatts' kitchen, has
16 GPI gained or lost franchisees in terms of the net
17 number of franchisees?

18 A. I'm not sure because I'm not sure of
19 the time frame.

20 Q. Okay. Fair enough.

21 Prior to filing litigation in July of
22 2022, had any franchisee of the GPI system failed to
23 renew their franchise agreement upon expiration?

24 A. I don't believe so, I'm not sure.
25 Beside Vid, I'm not sure.

1 Q. Understood. Besides Mr. Rapsys.

2 Since July of 20 -- strike that.

3 Between -- actually, strike that.

4 The franchise agreement that Mr. Rapsys
5 last signed expired in 2019, correct?

6 A. I believe so, yes. I'm not sure on
7 that, though.

8 Q. It expired at some point in time,
9 correct?

10 A. Yes.

11 Q. After the expiration and through the
12 date the litigation was filed in July of 2022, did
13 you have any communications with Mr. Rapsys
14 directly?

15 A. I believe I had one or two telephone
16 conversations, yes.

17 Q. And when, approximately, would those
18 conversations have occurred?

19 A. Right after my husband's passing.

20 Q. Okay. And what was the sum and
21 substance of those conversations?

22 A. What his intentions were going
23 forward.

24 Q. Am I to understand you're saying you
25 spoke to Mr. Rapsys to say, essentially, "What's

1 your plan here?"

2 A. When he intended to pay his debt, yes.
3 That would have been the reason for the call.

4 Q. And did you actually speak to Mr.
5 Rapsys or you tried to communicate with him and
6 didn't speak to him?

7 A. I did, I had one or two -- like I
8 said, I had one or two conversations with him, yes.

9 Q. And those were both by telephone?

10 A. Yes.

11 Q. I'm going to share my screen here, just
12 give me a moment.

13 I've put on the screen a document that
14 was marked as Mr. Rapsys's deposition Rapsys 02. Do
15 you see that on the screen?

16 A. Yes.

17 Q. Okay. And at the top is an e-mail from
18 Jeremy Brown to Mr. Rapsys dated April 28, 2022. Do
19 you see that?

20 A. Yes.

21 Q. And it says "Vid, I received your
22 e-mail responding to the GPI demand letter. I will
23 be giving this to Diane tonight. Thank you for
24 getting this to me. If you need anything else,
25 please reach out to me." Do you see that?

1 A. Yes.

2 Q. Okay. And below that is an e-mail from
3 Mr. Rapsys that says "Hi, Jeremy. A check for
4 \$5688.78 is out today covering your invoice numbers
5 3392 and 3577." Do you see that?

6 A. Yes.

7 Q. And then it says "Please relay the
8 following to Diane for me - Thank you." Do you see
9 that?

10 A. Yes.

11 Q. Now, it appears to -- I'm going to
12 scroll and there's no reason to read it unless you'd
13 like to -- a four-and-a-half-page e-mail,
14 approximately, from Mr. Rapsys to yourself. Do you
15 see that?

16 (Document is scrolled.)

17 Q. Do you see the approximately four-and-
18 a-half-page e-mail from Mr. Rapsys to yourself?

19 A. Okay, yes. You went so fast, I didn't
20 know what I was looking at.

21 Q. I'm sorry. Do you see an e-mail here
22 that starts "Dear Diane"; do you see that?

23 A. Yes.

24 Q. And do you understand that "Diane"
25 referenced here is yourself?

1 A. Yes.

2 Q. And did you receive this e-mail as a
3 result of Mr. Brown sending it to you or providing
4 it to you?

5 A. I don't recall that, no. It's
6 possible. It was difficult times.

7 Q. Say that one more time? I didn't hear
8 you. I apologize.

9 A. I said it's possible. It was a very
10 difficult time for me, yes.

11 Q. Understood. To your knowledge, did you
12 ever respond to this e-mail, to the extent you did
13 receive it from Mr. Rapsys?

14 A. No. I don't know that I received it,
15 but no, I did not.

16 Q. You did not respond?

17 A. No.

18 Q. In those conversations that you
19 mentioned, the one or two conversations, what did
20 Mr. Rapsys say when you inquired whether or not --
21 or what his plans were with respect to his Geese
22 Police franchise?

23 A. I don't recall -- I don't recall the
24 conversation because it was some time ago, but the
25 bulk of the conversation would be "When are you

1 intending to send in the money you owe Geese
2 Police?"

3 Q. Understood.

4 A. Or GPI.

5 MR. GOLDMAN: Let's take five minutes.
6 I may be done, I just want to go through my notes.

7 MS. JANKOWSKI: Okay.

8 (Recess taken)

9 MR. GOLDMAN: Ms. Marcks, I'd like to
10 thank you for your time today. Subject to the one
11 question that your counsel instructed you not to
12 answer, I have no further questions for you at this
13 time, but I appreciate your time today.

14 THE WITNESS: Thank you.

15 MR. GOLDMAN: Thank you.

16 MS. JANKOWSKI: Okay, this deposition
17 is concluded. The witness will read and sign.
18 Thank you.

19 MR. GOLDMAN: Have a great day.

20 MS. JANKOWSKI: Thanks. Bye.

21 (Deposition concluded at 11:43 a.m.)
22
23
24
25

C E R T I F I C A T E

I, MICHELE QUICK, a Certified Court Reporter, Registered Merit Reporter and Certified Realtime Reporter of the State of New Jersey, authorized to administer oaths pursuant to R.S. 41:2-1, do hereby certify that prior to commencement of the examination, DIANE MARCKS was duly sworn to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate verbatim transcript of the testimony as taken stenographically by me remotely, via Zoom, on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in this action.

A handwritten signature in dark ink, reading "Michele Quick", written in a cursive style. The signature is positioned above a horizontal line.

MICHELE QUICK, CCR, RMR, CRR
NJ Certified Court Reporter
License No. XI01731

E R R A T A S H E E T

GPI, LLC v. RAPSYS, INC., et al.
Civil Action No. 3:22-cv-04585
Deposition Transcript of Diane Marcks

PAGE LINE CORRECTION

I DO HEREBY CERTIFY that I have read
the transcript of my deposition and I swear
it is true and correct to the best of my
knowledge, subject to the above-referenced
corrections.

DIANE MARCKS

Sworn and subscribed before me this _____
day of _____, 2023.

Notary Public of the State of _____